



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

### HB2293

Introduced 2/18/2009, by Rep. Kevin A. McCarthy - Dave Winters  
- Robert Rita

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 105/3-51 new	
35 ILCS 120/2-5	from Ch. 120, par. 441-5
35 ILCS 120/2-46 new	

Amends the Use Tax Act and the Retailers Occupation Tax Act. From January 1, 2009 through December 31, 2019, exempts motor vehicle air pollution control parts, devices, equipment, appliances, or machinery. Defines terms. Imposes conditions on rulemaking authority.

LRB096 04710 RCE 14773 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-5 and by adding Section 3-51 as follows:

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

7 Sec. 3-5. Exemptions. Use of the following tangible  
8 personal property is exempt from the tax imposed by this Act:

9 (1) Personal property purchased from a corporation,  
10 society, association, foundation, institution, or  
11 organization, other than a limited liability company, that is  
12 organized and operated as a not-for-profit service enterprise  
13 for the benefit of persons 65 years of age or older if the  
14 personal property was not purchased by the enterprise for the  
15 purpose of resale by the enterprise.

16 (2) Personal property purchased by a not-for-profit  
17 Illinois county fair association for use in conducting,  
18 operating, or promoting the county fair.

19 (3) Personal property purchased by a not-for-profit arts or  
20 cultural organization that establishes, by proof required by  
21 the Department by rule, that it has received an exemption under  
22 Section 501(c)(3) of the Internal Revenue Code and that is  
23 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or  
2 services. These organizations include, but are not limited to,  
3 music and dramatic arts organizations such as symphony  
4 orchestras and theatrical groups, arts and cultural service  
5 organizations, local arts councils, visual arts organizations,  
6 and media arts organizations. On and after the effective date  
7 of this amendatory Act of the 92nd General Assembly, however,  
8 an entity otherwise eligible for this exemption shall not make  
9 tax-free purchases unless it has an active identification  
10 number issued by the Department.

11 (4) Personal property purchased by a governmental body, by  
12 a corporation, society, association, foundation, or  
13 institution organized and operated exclusively for charitable,  
14 religious, or educational purposes, or by a not-for-profit  
15 corporation, society, association, foundation, institution, or  
16 organization that has no compensated officers or employees and  
17 that is organized and operated primarily for the recreation of  
18 persons 55 years of age or older. A limited liability company  
19 may qualify for the exemption under this paragraph only if the  
20 limited liability company is organized and operated  
21 exclusively for educational purposes. On and after July 1,  
22 1987, however, no entity otherwise eligible for this exemption  
23 shall make tax-free purchases unless it has an active exemption  
24 identification number issued by the Department.

25 (5) Until July 1, 2003, a passenger car that is a  
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,  
3 2004, graphic arts machinery and equipment, including repair  
4 and replacement parts, both new and used, and including that  
5 manufactured on special order, certified by the purchaser to be  
6 used primarily for graphic arts production, and including  
7 machinery and equipment purchased for lease. Equipment  
8 includes chemicals or chemicals acting as catalysts but only if  
9 the chemicals or chemicals acting as catalysts effect a direct  
10 and immediate change upon a graphic arts product.

11 (7) Farm chemicals.

12 (8) Legal tender, currency, medallions, or gold or silver  
13 coinage issued by the State of Illinois, the government of the  
14 United States of America, or the government of any foreign  
15 country, and bullion.

16 (9) Personal property purchased from a teacher-sponsored  
17 student organization affiliated with an elementary or  
18 secondary school located in Illinois.

19 (10) A motor vehicle of the first division, a motor vehicle  
20 of the second division that is a self-contained motor vehicle  
21 designed or permanently converted to provide living quarters  
22 for recreational, camping, or travel use, with direct walk  
23 through to the living quarters from the driver's seat, or a  
24 motor vehicle of the second division that is of the van  
25 configuration designed for the transportation of not less than  
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,  
2 as defined in the Automobile Renting Occupation and Use Tax  
3 Act.

4 (11) Farm machinery and equipment, both new and used,  
5 including that manufactured on special order, certified by the  
6 purchaser to be used primarily for production agriculture or  
7 State or federal agricultural programs, including individual  
8 replacement parts for the machinery and equipment, including  
9 machinery and equipment purchased for lease, and including  
10 implements of husbandry defined in Section 1-130 of the  
11 Illinois Vehicle Code, farm machinery and agricultural  
12 chemical and fertilizer spreaders, and nurse wagons required to  
13 be registered under Section 3-809 of the Illinois Vehicle Code,  
14 but excluding other motor vehicles required to be registered  
15 under the Illinois Vehicle Code. Horticultural polyhouses or  
16 hoop houses used for propagating, growing, or overwintering  
17 plants shall be considered farm machinery and equipment under  
18 this item (11). Agricultural chemical tender tanks and dry  
19 boxes shall include units sold separately from a motor vehicle  
20 required to be licensed and units sold mounted on a motor  
21 vehicle required to be licensed if the selling price of the  
22 tender is separately stated.

23 Farm machinery and equipment shall include precision  
24 farming equipment that is installed or purchased to be  
25 installed on farm machinery and equipment including, but not  
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not  
2 limited to, soil testing sensors, computers, monitors,  
3 software, global positioning and mapping systems, and other  
4 such equipment.

5 Farm machinery and equipment also includes computers,  
6 sensors, software, and related equipment used primarily in the  
7 computer-assisted operation of production agriculture  
8 facilities, equipment, and activities such as, but not limited  
9 to, the collection, monitoring, and correlation of animal and  
10 crop data for the purpose of formulating animal diets and  
11 agricultural chemicals. This item (11) is exempt from the  
12 provisions of Section 3-90.

13 (12) Fuel and petroleum products sold to or used by an air  
14 common carrier, certified by the carrier to be used for  
15 consumption, shipment, or storage in the conduct of its  
16 business as an air common carrier, for a flight destined for or  
17 returning from a location or locations outside the United  
18 States without regard to previous or subsequent domestic  
19 stopovers.

20 (13) Proceeds of mandatory service charges separately  
21 stated on customers' bills for the purchase and consumption of  
22 food and beverages purchased at retail from a retailer, to the  
23 extent that the proceeds of the service charge are in fact  
24 turned over as tips or as a substitute for tips to the  
25 employees who participate directly in preparing, serving,  
26 hosting or cleaning up the food or beverage function with

1 respect to which the service charge is imposed.

2 (14) Until July 1, 2003, oil field exploration, drilling,  
3 and production equipment, including (i) rigs and parts of rigs,  
4 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
5 tubular goods, including casing and drill strings, (iii) pumps  
6 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
7 individual replacement part for oil field exploration,  
8 drilling, and production equipment, and (vi) machinery and  
9 equipment purchased for lease; but excluding motor vehicles  
10 required to be registered under the Illinois Vehicle Code.

11 (15) Photoprocessing machinery and equipment, including  
12 repair and replacement parts, both new and used, including that  
13 manufactured on special order, certified by the purchaser to be  
14 used primarily for photoprocessing, and including  
15 photoprocessing machinery and equipment purchased for lease.

16 (16) Until July 1, 2003, coal exploration, mining,  
17 offhighway hauling, processing, maintenance, and reclamation  
18 equipment, including replacement parts and equipment, and  
19 including equipment purchased for lease, but excluding motor  
20 vehicles required to be registered under the Illinois Vehicle  
21 Code.

22 (17) Until July 1, 2003, distillation machinery and  
23 equipment, sold as a unit or kit, assembled or installed by the  
24 retailer, certified by the user to be used only for the  
25 production of ethyl alcohol that will be used for consumption  
26 as motor fuel or as a component of motor fuel for the personal

1 use of the user, and not subject to sale or resale.

2 (18) Manufacturing and assembling machinery and equipment  
3 used primarily in the process of manufacturing or assembling  
4 tangible personal property for wholesale or retail sale or  
5 lease, whether that sale or lease is made directly by the  
6 manufacturer or by some other person, whether the materials  
7 used in the process are owned by the manufacturer or some other  
8 person, or whether that sale or lease is made apart from or as  
9 an incident to the seller's engaging in the service occupation  
10 of producing machines, tools, dies, jigs, patterns, gauges, or  
11 other similar items of no commercial value on special order for  
12 a particular purchaser.

13 (19) Personal property delivered to a purchaser or  
14 purchaser's donee inside Illinois when the purchase order for  
15 that personal property was received by a florist located  
16 outside Illinois who has a florist located inside Illinois  
17 deliver the personal property.

18 (20) Semen used for artificial insemination of livestock  
19 for direct agricultural production.

20 (21) Horses, or interests in horses, registered with and  
21 meeting the requirements of any of the Arabian Horse Club  
22 Registry of America, Appaloosa Horse Club, American Quarter  
23 Horse Association, United States Trotting Association, or  
24 Jockey Club, as appropriate, used for purposes of breeding or  
25 racing for prizes. This item (21) is exempt from the provisions  
26 of Section 3-90, and the exemption provided for under this item



1 (21) applies for all periods beginning May 30, 1995, but no  
2 claim for credit or refund is allowed on or after January 1,  
3 2008 for such taxes paid during the period beginning May 30,  
4 2000 and ending on January 1, 2008.

5 (22) Computers and communications equipment utilized for  
6 any hospital purpose and equipment used in the diagnosis,  
7 analysis, or treatment of hospital patients purchased by a  
8 lessor who leases the equipment, under a lease of one year or  
9 longer executed or in effect at the time the lessor would  
10 otherwise be subject to the tax imposed by this Act, to a  
11 hospital that has been issued an active tax exemption  
12 identification number by the Department under Section 1g of the  
13 Retailers' Occupation Tax Act. If the equipment is leased in a  
14 manner that does not qualify for this exemption or is used in  
15 any other non-exempt manner, the lessor shall be liable for the  
16 tax imposed under this Act or the Service Use Tax Act, as the  
17 case may be, based on the fair market value of the property at  
18 the time the non-qualifying use occurs. No lessor shall collect  
19 or attempt to collect an amount (however designated) that  
20 purports to reimburse that lessor for the tax imposed by this  
21 Act or the Service Use Tax Act, as the case may be, if the tax  
22 has not been paid by the lessor. If a lessor improperly  
23 collects any such amount from the lessee, the lessee shall have  
24 a legal right to claim a refund of that amount from the lessor.  
25 If, however, that amount is not refunded to the lessee for any  
26 reason, the lessor is liable to pay that amount to the

1 Department.

2 (23) Personal property purchased by a lessor who leases the  
3 property, under a lease of one year or longer executed or in  
4 effect at the time the lessor would otherwise be subject to the  
5 tax imposed by this Act, to a governmental body that has been  
6 issued an active sales tax exemption identification number by  
7 the Department under Section 1g of the Retailers' Occupation  
8 Tax Act. If the property is leased in a manner that does not  
9 qualify for this exemption or used in any other non-exempt  
10 manner, the lessor shall be liable for the tax imposed under  
11 this Act or the Service Use Tax Act, as the case may be, based  
12 on the fair market value of the property at the time the  
13 non-qualifying use occurs. No lessor shall collect or attempt  
14 to collect an amount (however designated) that purports to  
15 reimburse that lessor for the tax imposed by this Act or the  
16 Service Use Tax Act, as the case may be, if the tax has not been  
17 paid by the lessor. If a lessor improperly collects any such  
18 amount from the lessee, the lessee shall have a legal right to  
19 claim a refund of that amount from the lessor. If, however,  
20 that amount is not refunded to the lessee for any reason, the  
21 lessor is liable to pay that amount to the Department.

22 (24) Beginning with taxable years ending on or after  
23 December 31, 1995 and ending with taxable years ending on or  
24 before December 31, 2004, personal property that is donated for  
25 disaster relief to be used in a State or federally declared  
26 disaster area in Illinois or bordering Illinois by a

1 manufacturer or retailer that is registered in this State to a  
2 corporation, society, association, foundation, or institution  
3 that has been issued a sales tax exemption identification  
4 number by the Department that assists victims of the disaster  
5 who reside within the declared disaster area.

6 (25) Beginning with taxable years ending on or after  
7 December 31, 1995 and ending with taxable years ending on or  
8 before December 31, 2004, personal property that is used in the  
9 performance of infrastructure repairs in this State, including  
10 but not limited to municipal roads and streets, access roads,  
11 bridges, sidewalks, waste disposal systems, water and sewer  
12 line extensions, water distribution and purification  
13 facilities, storm water drainage and retention facilities, and  
14 sewage treatment facilities, resulting from a State or  
15 federally declared disaster in Illinois or bordering Illinois  
16 when such repairs are initiated on facilities located in the  
17 declared disaster area within 6 months after the disaster.

18 (26) Beginning July 1, 1999, game or game birds purchased  
19 at a "game breeding and hunting preserve area" or an "exotic  
20 game hunting area" as those terms are used in the Wildlife Code  
21 or at a hunting enclosure approved through rules adopted by the  
22 Department of Natural Resources. This paragraph is exempt from  
23 the provisions of Section 3-90.

24 (27) A motor vehicle, as that term is defined in Section  
25 1-146 of the Illinois Vehicle Code, that is donated to a  
26 corporation, limited liability company, society, association,

1 foundation, or institution that is determined by the Department  
2 to be organized and operated exclusively for educational  
3 purposes. For purposes of this exemption, "a corporation,  
4 limited liability company, society, association, foundation,  
5 or institution organized and operated exclusively for  
6 educational purposes" means all tax-supported public schools,  
7 private schools that offer systematic instruction in useful  
8 branches of learning by methods common to public schools and  
9 that compare favorably in their scope and intensity with the  
10 course of study presented in tax-supported schools, and  
11 vocational or technical schools or institutes organized and  
12 operated exclusively to provide a course of study of not less  
13 than 6 weeks duration and designed to prepare individuals to  
14 follow a trade or to pursue a manual, technical, mechanical,  
15 industrial, business, or commercial occupation.

16 (28) Beginning January 1, 2000, personal property,  
17 including food, purchased through fundraising events for the  
18 benefit of a public or private elementary or secondary school,  
19 a group of those schools, or one or more school districts if  
20 the events are sponsored by an entity recognized by the school  
21 district that consists primarily of volunteers and includes  
22 parents and teachers of the school children. This paragraph  
23 does not apply to fundraising events (i) for the benefit of  
24 private home instruction or (ii) for which the fundraising  
25 entity purchases the personal property sold at the events from  
26 another individual or entity that sold the property for the

1 purpose of resale by the fundraising entity and that profits  
2 from the sale to the fundraising entity. This paragraph is  
3 exempt from the provisions of Section 3-90.

4 (29) Beginning January 1, 2000 and through December 31,  
5 2001, new or used automatic vending machines that prepare and  
6 serve hot food and beverages, including coffee, soup, and other  
7 items, and replacement parts for these machines. Beginning  
8 January 1, 2002 and through June 30, 2003, machines and parts  
9 for machines used in commercial, coin-operated amusement and  
10 vending business if a use or occupation tax is paid on the  
11 gross receipts derived from the use of the commercial,  
12 coin-operated amusement and vending machines. This paragraph  
13 is exempt from the provisions of Section 3-90.

14 (30) Beginning January 1, 2001 and through June 30, 2011,  
15 food for human consumption that is to be consumed off the  
16 premises where it is sold (other than alcoholic beverages, soft  
17 drinks, and food that has been prepared for immediate  
18 consumption) and prescription and nonprescription medicines,  
19 drugs, medical appliances, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, when purchased for use by a person receiving medical  
22 assistance under Article 5 of the Illinois Public Aid Code who  
23 resides in a licensed long-term care facility, as defined in  
24 the Nursing Home Care Act.

25 (31) Beginning on the effective date of this amendatory Act  
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used  
2 in the diagnosis, analysis, or treatment of hospital patients  
3 purchased by a lessor who leases the equipment, under a lease  
4 of one year or longer executed or in effect at the time the  
5 lessor would otherwise be subject to the tax imposed by this  
6 Act, to a hospital that has been issued an active tax exemption  
7 identification number by the Department under Section 1g of the  
8 Retailers' Occupation Tax Act. If the equipment is leased in a  
9 manner that does not qualify for this exemption or is used in  
10 any other nonexempt manner, the lessor shall be liable for the  
11 tax imposed under this Act or the Service Use Tax Act, as the  
12 case may be, based on the fair market value of the property at  
13 the time the nonqualifying use occurs. No lessor shall collect  
14 or attempt to collect an amount (however designated) that  
15 purports to reimburse that lessor for the tax imposed by this  
16 Act or the Service Use Tax Act, as the case may be, if the tax  
17 has not been paid by the lessor. If a lessor improperly  
18 collects any such amount from the lessee, the lessee shall have  
19 a legal right to claim a refund of that amount from the lessor.  
20 If, however, that amount is not refunded to the lessee for any  
21 reason, the lessor is liable to pay that amount to the  
22 Department. This paragraph is exempt from the provisions of  
23 Section 3-90.

24 (32) Beginning on the effective date of this amendatory Act  
25 of the 92nd General Assembly, personal property purchased by a  
26 lessor who leases the property, under a lease of one year or

1 longer executed or in effect at the time the lessor would  
2 otherwise be subject to the tax imposed by this Act, to a  
3 governmental body that has been issued an active sales tax  
4 exemption identification number by the Department under  
5 Section 1g of the Retailers' Occupation Tax Act. If the  
6 property is leased in a manner that does not qualify for this  
7 exemption or used in any other nonexempt manner, the lessor  
8 shall be liable for the tax imposed under this Act or the  
9 Service Use Tax Act, as the case may be, based on the fair  
10 market value of the property at the time the nonqualifying use  
11 occurs. No lessor shall collect or attempt to collect an amount  
12 (however designated) that purports to reimburse that lessor for  
13 the tax imposed by this Act or the Service Use Tax Act, as the  
14 case may be, if the tax has not been paid by the lessor. If a  
15 lessor improperly collects any such amount from the lessee, the  
16 lessee shall have a legal right to claim a refund of that  
17 amount from the lessor. If, however, that amount is not  
18 refunded to the lessee for any reason, the lessor is liable to  
19 pay that amount to the Department. This paragraph is exempt  
20 from the provisions of Section 3-90.

21 (33) On and after July 1, 2003 and through June 30, 2004,  
22 the use in this State of motor vehicles of the second division  
23 with a gross vehicle weight in excess of 8,000 pounds and that  
24 are subject to the commercial distribution fee imposed under  
25 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
26 1, 2004 and through June 30, 2005, the use in this State of

1 motor vehicles of the second division: (i) with a gross vehicle  
2 weight rating in excess of 8,000 pounds; (ii) that are subject  
3 to the commercial distribution fee imposed under Section  
4 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
5 primarily used for commercial purposes. Through June 30, 2005,  
6 this exemption applies to repair and replacement parts added  
7 after the initial purchase of such a motor vehicle if that  
8 motor vehicle is used in a manner that would qualify for the  
9 rolling stock exemption otherwise provided for in this Act. For  
10 purposes of this paragraph, the term "used for commercial  
11 purposes" means the transportation of persons or property in  
12 furtherance of any commercial or industrial enterprise,  
13 whether for-hire or not.

14 (34) Beginning January 1, 2008, tangible personal property  
15 used in the construction or maintenance of a community water  
16 supply, as defined under Section 3.145 of the Environmental  
17 Protection Act, that is operated by a not-for-profit  
18 corporation that holds a valid water supply permit issued under  
19 Title IV of the Environmental Protection Act. This paragraph is  
20 exempt from the provisions of Section 3-90.

21 (35) Beginning January 1, 2009 through December 31, 2019,  
22 motor vehicle air pollution control parts, devices, equipment,  
23 appliances, or machinery used solely to prevent, abate, or  
24 reduce air pollution.

25 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,  
26 eff. 1-1-08; 95-876, eff. 8-21-08.)



1 (35 ILCS 105/3-51 new)

2 Sec. 3-51. Motor vehicle air pollution control parts,  
3 devices, equipment, appliances, or machinery. Motor vehicle  
4 air pollution control parts, devices, equipment, appliances,  
5 or machinery includes but is not limited to air injection  
6 parts; air pump check valves; catalytic converters; exhaust gas  
7 recirculation valves; evaporative canister and canister purge  
8 valves; and positive crankcase ventilation valves. The  
9 Department may adopt rules to implement and administer this  
10 exemption. Rulemaking authority to implement this amendatory  
11 Act of the 96th General Assembly, if any, is conditioned on the  
12 rules being adopted in accordance with all provisions of the  
13 Illinois Administrative Procedure Act and all rules and  
14 procedures of the Joint Committee on Administrative Rules; any  
15 purported rule not so adopted, for whatever reason, is  
16 unauthorized.

17 Section 10. The Retailers' Occupation Tax Act is amended by  
18 changing Section 2-5 and by adding Section 2-46 as follows:

19 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

20 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
21 sale of the following tangible personal property are exempt  
22 from the tax imposed by this Act:

23 (1) Farm chemicals.

1           (2) Farm machinery and equipment, both new and used,  
2 including that manufactured on special order, certified by the  
3 purchaser to be used primarily for production agriculture or  
4 State or federal agricultural programs, including individual  
5 replacement parts for the machinery and equipment, including  
6 machinery and equipment purchased for lease, and including  
7 implements of husbandry defined in Section 1-130 of the  
8 Illinois Vehicle Code, farm machinery and agricultural  
9 chemical and fertilizer spreaders, and nurse wagons required to  
10 be registered under Section 3-809 of the Illinois Vehicle Code,  
11 but excluding other motor vehicles required to be registered  
12 under the Illinois Vehicle Code. Horticultural polyhouses or  
13 hoop houses used for propagating, growing, or overwintering  
14 plants shall be considered farm machinery and equipment under  
15 this item (2). Agricultural chemical tender tanks and dry boxes  
16 shall include units sold separately from a motor vehicle  
17 required to be licensed and units sold mounted on a motor  
18 vehicle required to be licensed, if the selling price of the  
19 tender is separately stated.

20           Farm machinery and equipment shall include precision  
21 farming equipment that is installed or purchased to be  
22 installed on farm machinery and equipment including, but not  
23 limited to, tractors, harvesters, sprayers, planters, seeders,  
24 or spreaders. Precision farming equipment includes, but is not  
25 limited to, soil testing sensors, computers, monitors,  
26 software, global positioning and mapping systems, and other

1 such equipment.

2 Farm machinery and equipment also includes computers,  
3 sensors, software, and related equipment used primarily in the  
4 computer-assisted operation of production agriculture  
5 facilities, equipment, and activities such as, but not limited  
6 to, the collection, monitoring, and correlation of animal and  
7 crop data for the purpose of formulating animal diets and  
8 agricultural chemicals. This item (7) is exempt from the  
9 provisions of Section 2-70.

10 (3) Until July 1, 2003, distillation machinery and  
11 equipment, sold as a unit or kit, assembled or installed by the  
12 retailer, certified by the user to be used only for the  
13 production of ethyl alcohol that will be used for consumption  
14 as motor fuel or as a component of motor fuel for the personal  
15 use of the user, and not subject to sale or resale.

16 (4) Until July 1, 2003 and beginning again September 1,  
17 2004, graphic arts machinery and equipment, including repair  
18 and replacement parts, both new and used, and including that  
19 manufactured on special order or purchased for lease, certified  
20 by the purchaser to be used primarily for graphic arts  
21 production. Equipment includes chemicals or chemicals acting  
22 as catalysts but only if the chemicals or chemicals acting as  
23 catalysts effect a direct and immediate change upon a graphic  
24 arts product.

25 (5) A motor vehicle of the first division, a motor vehicle  
26 of the second division that is a self contained motor vehicle

1 designed or permanently converted to provide living quarters  
2 for recreational, camping, or travel use, with direct walk  
3 through access to the living quarters from the driver's seat,  
4 or a motor vehicle of the second division that is of the van  
5 configuration designed for the transportation of not less than  
6 7 nor more than 16 passengers, as defined in Section 1-146 of  
7 the Illinois Vehicle Code, that is used for automobile renting,  
8 as defined in the Automobile Renting Occupation and Use Tax  
9 Act. This paragraph is exempt from the provisions of Section  
10 2-70.

11 (6) Personal property sold by a teacher-sponsored student  
12 organization affiliated with an elementary or secondary school  
13 located in Illinois.

14 (7) Until July 1, 2003, proceeds of that portion of the  
15 selling price of a passenger car the sale of which is subject  
16 to the Replacement Vehicle Tax.

17 (8) Personal property sold to an Illinois county fair  
18 association for use in conducting, operating, or promoting the  
19 county fair.

20 (9) Personal property sold to a not-for-profit arts or  
21 cultural organization that establishes, by proof required by  
22 the Department by rule, that it has received an exemption under  
23 Section 501(c)(3) of the Internal Revenue Code and that is  
24 organized and operated primarily for the presentation or  
25 support of arts or cultural programming, activities, or  
26 services. These organizations include, but are not limited to,

1 music and dramatic arts organizations such as symphony  
2 orchestras and theatrical groups, arts and cultural service  
3 organizations, local arts councils, visual arts organizations,  
4 and media arts organizations. On and after the effective date  
5 of this amendatory Act of the 92nd General Assembly, however,  
6 an entity otherwise eligible for this exemption shall not make  
7 tax-free purchases unless it has an active identification  
8 number issued by the Department.

9 (10) Personal property sold by a corporation, society,  
10 association, foundation, institution, or organization, other  
11 than a limited liability company, that is organized and  
12 operated as a not-for-profit service enterprise for the benefit  
13 of persons 65 years of age or older if the personal property  
14 was not purchased by the enterprise for the purpose of resale  
15 by the enterprise.

16 (11) Personal property sold to a governmental body, to a  
17 corporation, society, association, foundation, or institution  
18 organized and operated exclusively for charitable, religious,  
19 or educational purposes, or to a not-for-profit corporation,  
20 society, association, foundation, institution, or organization  
21 that has no compensated officers or employees and that is  
22 organized and operated primarily for the recreation of persons  
23 55 years of age or older. A limited liability company may  
24 qualify for the exemption under this paragraph only if the  
25 limited liability company is organized and operated  
26 exclusively for educational purposes. On and after July 1,

1 1987, however, no entity otherwise eligible for this exemption  
2 shall make tax-free purchases unless it has an active  
3 identification number issued by the Department.

4 (12) Tangible personal property sold to interstate  
5 carriers for hire for use as rolling stock moving in interstate  
6 commerce or to lessors under leases of one year or longer  
7 executed or in effect at the time of purchase by interstate  
8 carriers for hire for use as rolling stock moving in interstate  
9 commerce and equipment operated by a telecommunications  
10 provider, licensed as a common carrier by the Federal  
11 Communications Commission, which is permanently installed in  
12 or affixed to aircraft moving in interstate commerce.

13 (12-5) On and after July 1, 2003 and through June 30, 2004,  
14 motor vehicles of the second division with a gross vehicle  
15 weight in excess of 8,000 pounds that are subject to the  
16 commercial distribution fee imposed under Section 3-815.1 of  
17 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
18 through June 30, 2005, the use in this State of motor vehicles  
19 of the second division: (i) with a gross vehicle weight rating  
20 in excess of 8,000 pounds; (ii) that are subject to the  
21 commercial distribution fee imposed under Section 3-815.1 of  
22 the Illinois Vehicle Code; and (iii) that are primarily used  
23 for commercial purposes. Through June 30, 2005, this exemption  
24 applies to repair and replacement parts added after the initial  
25 purchase of such a motor vehicle if that motor vehicle is used  
26 in a manner that would qualify for the rolling stock exemption

1 otherwise provided for in this Act. For purposes of this  
2 paragraph, "used for commercial purposes" means the  
3 transportation of persons or property in furtherance of any  
4 commercial or industrial enterprise whether for-hire or not.

5 (13) Proceeds from sales to owners, lessors, or shippers of  
6 tangible personal property that is utilized by interstate  
7 carriers for hire for use as rolling stock moving in interstate  
8 commerce and equipment operated by a telecommunications  
9 provider, licensed as a common carrier by the Federal  
10 Communications Commission, which is permanently installed in  
11 or affixed to aircraft moving in interstate commerce.

12 (14) Machinery and equipment that will be used by the  
13 purchaser, or a lessee of the purchaser, primarily in the  
14 process of manufacturing or assembling tangible personal  
15 property for wholesale or retail sale or lease, whether the  
16 sale or lease is made directly by the manufacturer or by some  
17 other person, whether the materials used in the process are  
18 owned by the manufacturer or some other person, or whether the  
19 sale or lease is made apart from or as an incident to the  
20 seller's engaging in the service occupation of producing  
21 machines, tools, dies, jigs, patterns, gauges, or other similar  
22 items of no commercial value on special order for a particular  
23 purchaser.

24 (15) Proceeds of mandatory service charges separately  
25 stated on customers' bills for purchase and consumption of food  
26 and beverages, to the extent that the proceeds of the service

1 charge are in fact turned over as tips or as a substitute for  
2 tips to the employees who participate directly in preparing,  
3 serving, hosting or cleaning up the food or beverage function  
4 with respect to which the service charge is imposed.

5 (16) Petroleum products sold to a purchaser if the seller  
6 is prohibited by federal law from charging tax to the  
7 purchaser.

8 (17) Tangible personal property sold to a common carrier by  
9 rail or motor that receives the physical possession of the  
10 property in Illinois and that transports the property, or  
11 shares with another common carrier in the transportation of the  
12 property, out of Illinois on a standard uniform bill of lading  
13 showing the seller of the property as the shipper or consignor  
14 of the property to a destination outside Illinois, for use  
15 outside Illinois.

16 (18) Legal tender, currency, medallions, or gold or silver  
17 coinage issued by the State of Illinois, the government of the  
18 United States of America, or the government of any foreign  
19 country, and bullion.

20 (19) Until July 1 2003, oil field exploration, drilling,  
21 and production equipment, including (i) rigs and parts of rigs,  
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
23 tubular goods, including casing and drill strings, (iii) pumps  
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
25 individual replacement part for oil field exploration,  
26 drilling, and production equipment, and (vi) machinery and



1 equipment purchased for lease; but excluding motor vehicles  
2 required to be registered under the Illinois Vehicle Code.

3 (20) Photoprocessing machinery and equipment, including  
4 repair and replacement parts, both new and used, including that  
5 manufactured on special order, certified by the purchaser to be  
6 used primarily for photoprocessing, and including  
7 photoprocessing machinery and equipment purchased for lease.

8 (21) Until July 1, 2003, coal exploration, mining,  
9 offhighway hauling, processing, maintenance, and reclamation  
10 equipment, including replacement parts and equipment, and  
11 including equipment purchased for lease, but excluding motor  
12 vehicles required to be registered under the Illinois Vehicle  
13 Code.

14 (22) Fuel and petroleum products sold to or used by an air  
15 carrier, certified by the carrier to be used for consumption,  
16 shipment, or storage in the conduct of its business as an air  
17 common carrier, for a flight destined for or returning from a  
18 location or locations outside the United States without regard  
19 to previous or subsequent domestic stopovers.

20 (23) A transaction in which the purchase order is received  
21 by a florist who is located outside Illinois, but who has a  
22 florist located in Illinois deliver the property to the  
23 purchaser or the purchaser's donee in Illinois.

24 (24) Fuel consumed or used in the operation of ships,  
25 barges, or vessels that are used primarily in or for the  
26 transportation of property or the conveyance of persons for

1 hire on rivers bordering on this State if the fuel is delivered  
2 by the seller to the purchaser's barge, ship, or vessel while  
3 it is afloat upon that bordering river.

4 (25) Except as provided in item (25-5) of this Section, a  
5 motor vehicle sold in this State to a nonresident even though  
6 the motor vehicle is delivered to the nonresident in this  
7 State, if the motor vehicle is not to be titled in this State,  
8 and if a drive-away permit is issued to the motor vehicle as  
9 provided in Section 3-603 of the Illinois Vehicle Code or if  
10 the nonresident purchaser has vehicle registration plates to  
11 transfer to the motor vehicle upon returning to his or her home  
12 state. The issuance of the drive-away permit or having the  
13 out-of-state registration plates to be transferred is prima  
14 facie evidence that the motor vehicle will not be titled in  
15 this State.

16 (25-5) The exemption under item (25) does not apply if the  
17 state in which the motor vehicle will be titled does not allow  
18 a reciprocal exemption for a motor vehicle sold and delivered  
19 in that state to an Illinois resident but titled in Illinois.  
20 The tax collected under this Act on the sale of a motor vehicle  
21 in this State to a resident of another state that does not  
22 allow a reciprocal exemption shall be imposed at a rate equal  
23 to the state's rate of tax on taxable property in the state in  
24 which the purchaser is a resident, except that the tax shall  
25 not exceed the tax that would otherwise be imposed under this  
26 Act. At the time of the sale, the purchaser shall execute a

1 statement, signed under penalty of perjury, of his or her  
2 intent to title the vehicle in the state in which the purchaser  
3 is a resident within 30 days after the sale and of the fact of  
4 the payment to the State of Illinois of tax in an amount  
5 equivalent to the state's rate of tax on taxable property in  
6 his or her state of residence and shall submit the statement to  
7 the appropriate tax collection agency in his or her state of  
8 residence. In addition, the retailer must retain a signed copy  
9 of the statement in his or her records. Nothing in this item  
10 shall be construed to require the removal of the vehicle from  
11 this state following the filing of an intent to title the  
12 vehicle in the purchaser's state of residence if the purchaser  
13 titles the vehicle in his or her state of residence within 30  
14 days after the date of sale. The tax collected under this Act  
15 in accordance with this item (25-5) shall be proportionately  
16 distributed as if the tax were collected at the 6.25% general  
17 rate imposed under this Act.

18 (25-7) Beginning on July 1, 2007, no tax is imposed under  
19 this Act on the sale of an aircraft, as defined in Section 3 of  
20 the Illinois Aeronautics Act, if all of the following  
21 conditions are met:

22 (1) the aircraft leaves this State within 15 days after  
23 the later of either the issuance of the final billing for  
24 the sale of the aircraft, or the authorized approval for  
25 return to service, completion of the maintenance record  
26 entry, and completion of the test flight and ground test

1 for inspection, as required by 14 C.F.R. 91.407;

2 (2) the aircraft is not based or registered in this  
3 State after the sale of the aircraft; and

4 (3) the seller retains in his or her books and records  
5 and provides to the Department a signed and dated  
6 certification from the purchaser, on a form prescribed by  
7 the Department, certifying that the requirements of this  
8 item (25-7) are met. The certificate must also include the  
9 name and address of the purchaser, the address of the  
10 location where the aircraft is to be titled or registered,  
11 the address of the primary physical location of the  
12 aircraft, and other information that the Department may  
13 reasonably require.

14 For purposes of this item (25-7):

15 "Based in this State" means hangared, stored, or otherwise  
16 used, excluding post-sale customizations as defined in this  
17 Section, for 10 or more days in each 12-month period  
18 immediately following the date of the sale of the aircraft.

19 "Registered in this State" means an aircraft registered  
20 with the Department of Transportation, Aeronautics Division,  
21 or titled or registered with the Federal Aviation  
22 Administration to an address located in this State.

23 This paragraph (25-7) is exempt from the provisions of  
24 Section 2-70.

25 (26) Semen used for artificial insemination of livestock  
26 for direct agricultural production.

1           (27) Horses, or interests in horses, registered with and  
2 meeting the requirements of any of the Arabian Horse Club  
3 Registry of America, Appaloosa Horse Club, American Quarter  
4 Horse Association, United States Trotting Association, or  
5 Jockey Club, as appropriate, used for purposes of breeding or  
6 racing for prizes. This item (27) is exempt from the provisions  
7 of Section 2-70, and the exemption provided for under this item  
8 (27) applies for all periods beginning May 30, 1995, but no  
9 claim for credit or refund is allowed on or after January 1,  
10 2008 (the effective date of Public Act 95-88) for such taxes  
11 paid during the period beginning May 30, 2000 and ending on  
12 January 1, 2008 (the effective date of Public Act 95-88) .

13           (28) Computers and communications equipment utilized for  
14 any hospital purpose and equipment used in the diagnosis,  
15 analysis, or treatment of hospital patients sold to a lessor  
16 who leases the equipment, under a lease of one year or longer  
17 executed or in effect at the time of the purchase, to a  
18 hospital that has been issued an active tax exemption  
19 identification number by the Department under Section 1g of  
20 this Act.

21           (29) Personal property sold to a lessor who leases the  
22 property, under a lease of one year or longer executed or in  
23 effect at the time of the purchase, to a governmental body that  
24 has been issued an active tax exemption identification number  
25 by the Department under Section 1g of this Act.

26           (30) Beginning with taxable years ending on or after

1 December 31, 1995 and ending with taxable years ending on or  
2 before December 31, 2004, personal property that is donated for  
3 disaster relief to be used in a State or federally declared  
4 disaster area in Illinois or bordering Illinois by a  
5 manufacturer or retailer that is registered in this State to a  
6 corporation, society, association, foundation, or institution  
7 that has been issued a sales tax exemption identification  
8 number by the Department that assists victims of the disaster  
9 who reside within the declared disaster area.

10 (31) Beginning with taxable years ending on or after  
11 December 31, 1995 and ending with taxable years ending on or  
12 before December 31, 2004, personal property that is used in the  
13 performance of infrastructure repairs in this State, including  
14 but not limited to municipal roads and streets, access roads,  
15 bridges, sidewalks, waste disposal systems, water and sewer  
16 line extensions, water distribution and purification  
17 facilities, storm water drainage and retention facilities, and  
18 sewage treatment facilities, resulting from a State or  
19 federally declared disaster in Illinois or bordering Illinois  
20 when such repairs are initiated on facilities located in the  
21 declared disaster area within 6 months after the disaster.

22 (32) Beginning July 1, 1999, game or game birds sold at a  
23 "game breeding and hunting preserve area" or an "exotic game  
24 hunting area" as those terms are used in the Wildlife Code or  
25 at a hunting enclosure approved through rules adopted by the  
26 Department of Natural Resources. This paragraph is exempt from

1 the provisions of Section 2-70.

2 (33) A motor vehicle, as that term is defined in Section  
3 1-146 of the Illinois Vehicle Code, that is donated to a  
4 corporation, limited liability company, society, association,  
5 foundation, or institution that is determined by the Department  
6 to be organized and operated exclusively for educational  
7 purposes. For purposes of this exemption, "a corporation,  
8 limited liability company, society, association, foundation,  
9 or institution organized and operated exclusively for  
10 educational purposes" means all tax-supported public schools,  
11 private schools that offer systematic instruction in useful  
12 branches of learning by methods common to public schools and  
13 that compare favorably in their scope and intensity with the  
14 course of study presented in tax-supported schools, and  
15 vocational or technical schools or institutes organized and  
16 operated exclusively to provide a course of study of not less  
17 than 6 weeks duration and designed to prepare individuals to  
18 follow a trade or to pursue a manual, technical, mechanical,  
19 industrial, business, or commercial occupation.

20 (34) Beginning January 1, 2000, personal property,  
21 including food, purchased through fundraising events for the  
22 benefit of a public or private elementary or secondary school,  
23 a group of those schools, or one or more school districts if  
24 the events are sponsored by an entity recognized by the school  
25 district that consists primarily of volunteers and includes  
26 parents and teachers of the school children. This paragraph

1 does not apply to fundraising events (i) for the benefit of  
2 private home instruction or (ii) for which the fundraising  
3 entity purchases the personal property sold at the events from  
4 another individual or entity that sold the property for the  
5 purpose of resale by the fundraising entity and that profits  
6 from the sale to the fundraising entity. This paragraph is  
7 exempt from the provisions of Section 2-70.

8 (35) Beginning January 1, 2000 and through December 31,  
9 2001, new or used automatic vending machines that prepare and  
10 serve hot food and beverages, including coffee, soup, and other  
11 items, and replacement parts for these machines. Beginning  
12 January 1, 2002 and through June 30, 2003, machines and parts  
13 for machines used in commercial, coin-operated amusement and  
14 vending business if a use or occupation tax is paid on the  
15 gross receipts derived from the use of the commercial,  
16 coin-operated amusement and vending machines. This paragraph  
17 is exempt from the provisions of Section 2-70.

18 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
19 food for human consumption that is to be consumed off the  
20 premises where it is sold (other than alcoholic beverages, soft  
21 drinks, and food that has been prepared for immediate  
22 consumption) and prescription and nonprescription medicines,  
23 drugs, medical appliances, and insulin, urine testing  
24 materials, syringes, and needles used by diabetics, for human  
25 use, when purchased for use by a person receiving medical  
26 assistance under Article 5 of the Illinois Public Aid Code who



1 resides in a licensed long-term care facility, as defined in  
2 the Nursing Home Care Act.

3 (36) Beginning August 2, 2001, computers and  
4 communications equipment utilized for any hospital purpose and  
5 equipment used in the diagnosis, analysis, or treatment of  
6 hospital patients sold to a lessor who leases the equipment,  
7 under a lease of one year or longer executed or in effect at  
8 the time of the purchase, to a hospital that has been issued an  
9 active tax exemption identification number by the Department  
10 under Section 1g of this Act. This paragraph is exempt from the  
11 provisions of Section 2-70.

12 (37) Beginning August 2, 2001, personal property sold to a  
13 lessor who leases the property, under a lease of one year or  
14 longer executed or in effect at the time of the purchase, to a  
15 governmental body that has been issued an active tax exemption  
16 identification number by the Department under Section 1g of  
17 this Act. This paragraph is exempt from the provisions of  
18 Section 2-70.

19 (38) Beginning on January 1, 2002 and through June 30,  
20 2011, tangible personal property purchased from an Illinois  
21 retailer by a taxpayer engaged in centralized purchasing  
22 activities in Illinois who will, upon receipt of the property  
23 in Illinois, temporarily store the property in Illinois (i) for  
24 the purpose of subsequently transporting it outside this State  
25 for use or consumption thereafter solely outside this State or  
26 (ii) for the purpose of being processed, fabricated, or

1 manufactured into, attached to, or incorporated into other  
2 tangible personal property to be transported outside this State  
3 and thereafter used or consumed solely outside this State. The  
4 Director of Revenue shall, pursuant to rules adopted in  
5 accordance with the Illinois Administrative Procedure Act,  
6 issue a permit to any taxpayer in good standing with the  
7 Department who is eligible for the exemption under this  
8 paragraph (38). The permit issued under this paragraph (38)  
9 shall authorize the holder, to the extent and in the manner  
10 specified in the rules adopted under this Act, to purchase  
11 tangible personal property from a retailer exempt from the  
12 taxes imposed by this Act. Taxpayers shall maintain all  
13 necessary books and records to substantiate the use and  
14 consumption of all such tangible personal property outside of  
15 the State of Illinois.

16 (39) Beginning January 1, 2008, tangible personal property  
17 used in the construction or maintenance of a community water  
18 supply, as defined under Section 3.145 of the Environmental  
19 Protection Act, that is operated by a not-for-profit  
20 corporation that holds a valid water supply permit issued under  
21 Title IV of the Environmental Protection Act. This paragraph is  
22 exempt from the provisions of Section 2-70.

23 (40) Beginning January 1, 2009 through December 31, 2019,  
24 motor vehicle air pollution control parts, devices, equipment,  
25 appliances, or machinery used solely to prevent, abate, or  
26 reduce air pollution.

1 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,  
2 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;  
3 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

4 (35 ILCS 120/2-46 new)

5 Sec. 2-46. Motor vehicle air pollution control parts,  
6 devices, equipment, appliances, or machinery. Motor vehicle  
7 air pollution control parts, devices, equipment, appliances,  
8 or machinery includes but is not limited to air injection  
9 parts; air pump check valves; catalytic converters; exhaust gas  
10 recirculation valves; evaporative canister and canister purge  
11 valves; and positive crankcase ventilation valves. The  
12 Department may adopt rules to implement and administer this  
13 exemption. Rulemaking authority to implement this amendatory  
14 Act of the 96th General Assembly, if any, is conditioned on the  
15 rules being adopted in accordance with all provisions of the  
16 Illinois Administrative Procedure Act and all rules and  
17 procedures of the Joint Committee on Administrative Rules; any  
18 purported rule not so adopted, for whatever reason, is  
19 unauthorized.